

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GARY DEAN PARKS

vs.

COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION

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CASE NO. 2:09-CV-67

**REPORT AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

On March 10, 2009, Plaintiff initiated this civil action pursuant to the Social Security Act (The Act), Section 205(g) for judicial review of the Commissioner's denial of Plaintiff's application for Social Security benefits. Pursuant to 28 U.S.C. § 636(b), the case was referred to the undersigned for findings of fact, conclusions of law, and recommendations for the disposition of pending motions. *See Mathews v. Weber*, 423 U.S. 261, 271-72 (1976); *Anthony v. Sullivan*, 954 F.2d 289 (5th Cir. 1992).

On May 14, 2009, Plaintiff filed a motion to dismiss this case. Federal Rule of Civil Procedure 41(a) allows the Court to dismiss an action pursuant to a plaintiff's motion on such terms and conditions as the court deems proper.

RECOMMENDATION

In light of the foregoing, it is recommended that the above-entitled Social Security action be **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 41(a).

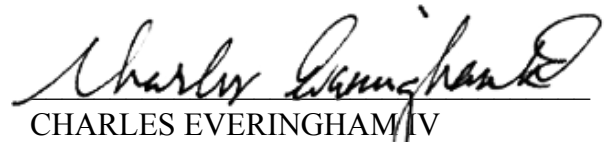
If the parties file no objections to the United States Magistrate Judge's report, then the district judge can conclude that the findings of fact and conclusions of law in the Report are correct, adopt the report, and issue a final judgment according to the magistrate judge's recommendations.

Homan v. Comm'r of Soc. Sec. Admin., 84 F. Supp. 2d 814, 815 (E.D. Tex. 2000); *cf. Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996). Objections must be specific, written, and served and filed within ten days after being served with a copy of this report.” *Myer v. Callahan*, 974 F. Supp. 578, 588 (E.D. Tex. 1997); 28 U.S.C. § 636(b)(1); F.R.C.P. 6(a)-(b) and 72(b). A party’s failure to file written objections to the findings and recommendations contained in this Report within ten days after service shall bar that party from the following:

(1) *de novo* review by the district judge of those findings and recommendations (*Myer*, 974 F. Supp. at 588; *Rodriguez v. Bowen*, 857 F.2d at 276-77 (5th Cir. 1988; *see also Douglass*, 79 F.3d 1415); and

(2) appellate review, except on grounds of plain error, of unobjected-to proposed fact findings and legal conclusions accepted and adopted by the district court (*Myer*, 974 F. Supp. at 588; *see also Douglass*, 79 F.3d at 1417).

SIGNED this 8th day of October, 2009.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE